IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO : 12573 of 2005

Between:

Smt. P. Ananthamma W/o Sambasiva Rao,
Fair Price Shop Dealer, Kudapa (V), Reddigudem (M) Krishna District.

..... PETITIONER

AND

1 The Joint Collector, Krishna, Machilipatnam
2 The Revenue Divisional Officer, Nuzvid, Krishna District.
3 The Mandal Revenue Officer, Reddigudem(M) Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ or direction preferably Writ of Mandamus declaring the order of the 2nd respondent issued in Proceedings Rc. A. 2006/2004 dt 18-12-2004 and order of the 1st respondent in Rc. No. B1/SRA/05/2005, dt 23-5-2005 are illegal, arbitrary, and violative of principles of natural justice and consequently direct the respondents to continue the petitioner as Fair Price shop dealer of Kudapa Village Reddigudem (M) Krishna District.

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following:

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ORAL ORDER:

The Writ Petition is disposed of at the admission stage with the consent of both the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

2. The grievance of the petitioner in this Writ Petition is that the Revenue Divisional Officer, (2nd respondent), by his proceedings dated 18.12.2004 has cancelled the authorization granted in favour of the petitioner without putting him on notice and that the said action is in violation of Clause 5(4) of the A.P. State Public Distribution System Control Order, 2001 (for short the Order), which contemplates an enquiry to be held and for reasons to be recorded in writing before the authorization is cancelled.

3. Mr.K.Vinaya Kumar draws my attention to a Judgment of this Court in B.VENKATESWARA RAO vs. REVENUE DIVISIONAL OFFICER, BHADRACHALAM, KHAMMAM DISTRICT AND ANOTHER[1], wherein this Court held in paragraph 5 that an enquiry is required to be conducted in such cases and opportunity of being heard is to be afforded to the license holder.

4. In the grounds of appeal filed before the 1st respondent-Joint Collector, Krishna, Machilipatnam-, the petitioner has categorically stated that no notice was issued by the Revenue Divisional Officer, Nuzvid, Krishna District before cancellation of the authorization. While the appellate authority has dealt with the order on merits, this particular fact is not disputed. Reference may also be made to the judgment of this Court in Writ Petition No.1576 of 2005, dated 8.2.2005, wherein the Writ Petition filed by the petitioner challenging the order of the Revenue Divisional Officer dated 18.12.2004 was disposed of granting stay of cancellation pending disposal of the appeal by the Joint Collector.

5. Against the order of the Joint Collector dated 23.5.2005 a Revision lies to the District Collector within 30 days from the date of receipt of a copy of the order. It is stated by Mr.Vinaya Kumar that he received the copy of the order on 2.6.2005. He submits that he will prefer a Revision to the District Collector within a week from today along with an application seeking stay of the orders of the Joint Collector dated 23.5.2005 and the order of the Revenue Divisional Officer, dated 18.12.2004, pending disposal of the Revision. Since this Court in Writ Petition No.1576 of 2005, dated 8.2.2005, had granted stay of the order of

cancellation pending disposal of the appeal and in view of the Judgment of this Court in 'B.Venkateswara Rao vs. R.D.O.' that the enquiry contemplated under Clause 5(4) of the Control Order can only be undertaken after putting the petitioner on notice, I deem it appropriate to direct stay of the order of cancellation dated 18.12.2004 pending disposal of the stay application by the Revisional authority-District Collector. The petitioner herein shall prefer the revision along with a stay application within one week from today and the District Collector, Krishna District shall dispose of the stay application or the Revision itself within two months thereafter.

6. With the above observations, the Writ Petition is disposed of at the stage of admission. No costs.

16.06.2005

SSR

Issue copy in three days.

(BO)

To

1 The Joint Collector, Krishna, Machilipatnam
2 The Revenue Divisional Officer, Nuzvid, Krishna District.
3 The Mandal Revenue Officer, Reddigudem(M) Krishna District.

4 2 CCs to G.P. for Civil Supplies, High Court of A.P. Hyderabad. (OUT)

5 2 CD copies

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